

thereby, to be recovered in an action of debt in any court having jurisdiction of the amount, and shall also be subject to indictment, and be punished by fine or imprisonment, or both, in the discretion of the court, and be proceeded against in the same manner as provided for by law in the punishment of offences against other real or personal property.

To construct
fence.

SEC. 12. Whenever it shall be necessary in the location or construction of said road to pass through enclosed grounds, it shall be the duty of the said company before the same shall be used as a rail road, to fence the said road on both sides thereof, as far as the same shall be enclosed ground, and at all times to keep the enclosure entire.

Public use.

SEC. 13. This act is hereby declared to be a public act, and shall be favorably construed in all of the courts of this state, and printed copies of the same shall be deemed sufficient evidence of the facts herein contained.

J. McM. SHAFER,

Speaker of the Assembly.

E. B. DEAN, JR.

President pro tem. of the Senate.

Approved, April 16, 1852.

LEONARD J. FARWELL.

[Published June 17, 1852.]

Chap 366 An Act to incorporate the Plymouth and Saukville Plank and Turnpike Road Company.

The people of the State of Wisconsin represented in Senate and Assembly, do enact as follows:

Commissioners

SECTION 1. That William R. Ellis, F. W. Horn, A. Lamberson, Oran Rogers, E. M. McIntosh, John W. Taylor, William D. Lisse, LaFayette Eastman, William Payne, J. — Feischbien, George C. Daniels, and William Hudson, be and they are hereby appointed commissioners, under the direction of a majority of whom, subscriptions may be received to the capital stock of the Plymouth and Saukville Plank and Turnpike Road Company, are hereby incorporated, and they may cause books to be opened at such times and places as they shall direct for the purpose of receiving subscriptions to the capital stock of said company, first giving thirty days' notice of the times and places of taking such subscriptions, by publishing the same in one or more newspapers printed in the counties of Sheboygan or Washington.

Capital stock.

SEC. 2. The capital stock of said company shall be seventy-five thousand dollars, and shall be divided into shares

of ten dollars each, and as soon as four hundred shares of the capital stock shall be subscribed, and one dollar of each share actually paid in, the subscribers of such stock with such other persons as shall associate with them for that purpose, their successors and assigns, shall be and they are hereby declared and created a body corporate and politic by the name and style of "The Plymouth and Saukville Plank and Turnpike Road Company," with perpetual succession, and by that name shall have all the privileges, franchises, and immunities incident to a corporation, to wit: they shall be capable in law of purchasing, holding, leasing and conveying estates, either real, personal, or mixed, and in their corporate name may sue and be sued, may have a common seal, which they may alter or renew at pleasure, and generally may do all and singular the matters and things which they are authorized by law to do for the interest and well being of said company.

Sec. 3. The said commissioners, or a majority of them, after the said four hundred shares of stock shall have been subscribed as aforesaid, shall give at least twenty days' notice in the newspapers hereinbefore mentioned, of the time and place of the meeting of the stockholders for the purpose of electing seven directors, who shall elect one of their number president, and annually thereafter the said stockholders shall meet on the first Monday in June for the purpose of electing directors as aforesaid, upon a like previous notice to be given by a majority of the directors for the time being, in such newspapers as they think proper: *Provided*, To call meeting. That previous to the first election, the commissioners hereinbefore named shall elect one of their number president, and they shall perform all the duties, and be invested with all the powers of directors: *And provided*, Proviso. That if from any cause an election shall not be held at the regular time specified therefor, the same may be held at any other time on notice as aforesaid; that until such election the directors of the preceding year shall continue to act, and this charter shall not be avoided by reason of the irregularity or want of such election, and in case of any vacancy in the board of directors [the same may be filled by the board of directors] or by a majority of them.

Sec. 4. The affairs of said company shall be managed by a board of seven directors, who shall be stockholders, and be chosen annually by ballot if the stockholders of said company, the vote to be given in person or by proxy Board of directors. duly authorized, which directors shall appoint one of their number president, and shall serve until others are elected in their stead. They shall make and establish such by-

laws, rules, orders, and regulations, not inconsistent with the constitution and laws of the United States and of the state of Wisconsin, as may be necessary for the well ordering of the affairs of said company. Each share of stock shall be entitled to one vote, and in all cases of elections for directors the seven stockholders having the greatest number of votes shall be declared duly elected.

Powers of directors.

SEC. 5. Five directors shall constitute a quorum for the transaction of business, who in the absence of the president may appoint a president *pro tem*. The said directors shall appoint a secretary, treasurer, such engineers and other officers as they may find necessary, and fix their compensation, and may demand adequate security for the performance of their respective trusts, and they shall have power to decide the time and manner in which the said stockholders shall pay the money due on their respective shares, not exceeding twenty-five per cent. in any one installment, and to forfeit to the use of said company the share or shares of every person or persons failing to pay any installment, at a reasonable period, not less than thirty days after the time appointed for the payment thereof. They shall have power to regulate tolls, to make such covenants, contracts, and agreements with any person or persons, or body politic whatever, as the execution and management of the works and the convenience and interest of the company may require, and in general to superintend and direct all the operations, receipts, disbursements, and other proceedings of the company. The commissioners until the directors are chosen shall issue certificates to each stockholder for the number of shares he or she shall subscribe for or hold in said corporation, signed by the president and countersigned by the secretary, subject to all the payments due and to become due thereon, which stock shall be transferable in person or by attorney, executors, administrators, guardians, or trustees, under such regulations as may be provided by the by-laws of said company.

Route of Road.

SEC. 6. The said company shall have power to locate and construct a single or double track plank or turnpike road from the town and village of Plymouth, in Sheboygan county, to the village of Saukville, in Washington county, and they shall have power to erect all such toll houses, bridges, and other works and appendages as may be necessary for the convenience of said company in the use of said road. The directors shall exercise all powers conferred on them by law; shall audit and pay all accounts; give and receive all such receipts and discharges of debts as shall be deemed best for the interest of said company

fix the compensation and salary of the officers they may appoint; and meet at such times and places as they may prescribe in the by-laws to be enacted by them. They may appoint and remove all officers at pleasure, prescribe the meeting of the stockholders, and declare and pay the dividends, or so much of the surplus profits of the company as they shall deem advisable, which may accrue on the shares of the said stock to the stockholders of said company on the first Mondays of July and January of each year.

SEC. 7. It shall and may be lawful for said company, their officers, engineers, and agents, to enter upon any lands for the purpose of exploring, surveying, and locating the route of said road, doing thereto no unnecessary damage, and when said route shall be determined by the said company, it shall be lawful for them, their agents, of-^{May enter on} ficers, engineers, contractors, and servants, at any time to ^{lands.} enter upon, take possession of, and use such lands for the purposes of said road, not exceeding four rods in width along the line of said route, subject however, to the payment of such compensation as the company may have agreed to pay therefor, or as shall be ascertained in the manner hereinafter directed and provided for.

SEC. 8. When the said corporation cannot agree with the owner or owners of any land, gravel, stone, or other material required for the construction of said road, for the purchase thereof, or the compensation to be paid therefor, or when by reason of the absence or legal incapacity of the owner or owners, no such agreement or purchase can be made, then, and in any such case, it shall be lawful for any justice of the peace of the county in which the property may lie, to issue his warrant directed to the sheriff or any constable of said county, not directly interested, requiring him to summon a jury of nine freeholders of said county not interested in said property, to meet at some convenient place, at or near the property to be valued, on a day in said warrant named, not less than five nor more than ten days from the date of said warrant; and if at the time and place named, any person so summoned do not attend, the said sheriff or constable shall immediately summon as many as may be necessary with the persons in attendance as jurors, to furnish a pannel of nine jurors, and from them the said company and the owner or owners of the property to be valued, their agent or attorney, or either of them, and if they are not present in person or by attorney, the sheriff or consta-^{How damages} ^{settled.}

ble shall for him or her, strike off each two of said jurors, and the remaining five shall act as a jury of inquest of damages; and before they act as such, the said sheriff or constable shall administer to each of them an oath or affirmation that he will faithfully and impartially value the lands or materials required for said road, and all damages which the owner or owners shall sustain by reason of the construction of said road, according to the best of his skill and judgment; whereupon the said jurors shall proceed to view the said land or material so required, and to hear the evidence of the respective parties, which the said jurors shall reduce to writing, which shall be signed by all or a majority of said jurors, and by the sheriff or other officer in attendance, and the said officer shall within five days thereafter, transmit the same to the clerk of the district court of the proper county, who shall file the same; such inquisition shall describe the property taken or to be taken, or the boundaries of the land in question, and the value thereof as aforesaid, and when such valuation shall be paid, together with the costs of such inquisition, or tendered to the owner or owners, or deposited with the said court, shall entitle the said company to the estate and interest in the same thus valued, as if it had been conveyed by the owner or owners thereof in fee simple, so long as the land thus valued and taken shall be used for the track of said road: *Provided*, That it shall not be lawful for any such jury of inquest to proceed in the valuation of any such property or material in the absence of the owner or owners thereof, his, her, or their legal representatives, unless it be made to appear by affidavit, that such owner or owners have had at least five days' notice of the time and place of meeting for the purpose of making such valuation, or unless it shall in like manner be shown that such owner or owners are absent from the county, and if such owner or owners are under age or *non compos mentis*, the service of notice upon the guardian or trustee, (if there be any,) or of their absence from the county shall be required to be established by affidavit to the said jurors before they shall proceed to make such valuation: *Provided further*, That in case of such disagreement the company shall not take possession of any land or material until such jury shall have first decided that the taking thereof is necessary, and in cases of materials that the same are not essentially necessary to the owner or owners thereof for his, her, or their private and proper use.

SEC. 9. The shares of stock of the company shall be

Provide

deemed personal property, and every person becoming a shareholder by transfer, purchase, or otherwise of shares of said stock, shall succeed to all the rights and liabilities of the prior holder of said share or shares, and the said shares shall be liable to be taken in execution for the payment of the debts of their owners in such manner as is or may be provided by law: *Provided*, That all debts due the said company shall first be paid. *Whenever the route of said road follows the line of any public highway, the said company shall not take possession of said highway until the supervisors of the town through which it passes shall have given their written consent, which shall be recorded in the town clerk's office, or if the said supervisors shall refuse to give their consent then the damages to the town shall be appraised or ascertained as in the case of private property; and the amount so appraised for such highway so taken, shall be paid to the said supervisors of the town to which it belongs, to be by them applied in improving the roads in such town.*

SEC. 10. If any person shall willfully and knowingly obstruct, break, injure, or destroy the road so to be constructed by said company, or any part thereof, or any work, building, or fixture attached to or in use upon the same, belonging to said company, such person or persons so offending, shall each of them for every such offence, be liable in a civil suit for the recovery of damages by said company, by an action of debt in any court having competent jurisdiction in the county wherein the offence shall have been committed, and also be subject to indictment, and upon conviction shall be punished by fine and imprisonment, or either, at the discretion of the court.

SEC. 11. The directors may erect toll gates and exact toll from persons traveling on their road, whenever three consecutive miles are finished, or when the whole road is completed, not exceeding one cent per mile for every vehicle, sled, sleigh, or carriage drawn by one animal, and if drawn by more than one animal, one cent a mile for every additional animal; and for every horse and rider or led animal, one cent a mile; for every score of sheep or swine, three cents a mile, and for every score of neat cattle, four cents a mile: *Provided*, That persons actually going to or returning from any religious meeting on Sunday, or going to or returning from funerals, shall be exempt from toll.

SEC. 12. The said directors may receive from any stockholder in said company, in lieu of money, for the stock subscribed by him, real or personal property to be approved of by the said board of directors, and upon the acceptance of

Stock deemed
personal prop-
erty.

Proviso.

Penalty for in-
jury to road.

Rate of toll.

Proviso.

May receive property on subscriptions.

said securities from said stockholders, or any of them, the subscription of such stockholder shall be considered as paid and certificates of stock shall be issued to said stockholder in the same manner as if he had paid in the full amount of his subscription in money; and it shall be competent for the said stockholders paying their subscriptions to said stock in securities as aforesaid, to contract and to pay to said company, interest at the rate of twelve per centum for a period not exceeding ten years, and to execute to said company, by its corporate name, bonds, mortgages, or notes for such stock, which shall be available for the use and benefit of said company and for all subsequent holders thereof, and be transferable by them in the same manner as if the same were made payable to individuals, or to their order or assigns.

May increase capital stock.

SEC. 13. The directors of said company may at any annual or special meeting of the stockholders, with the consent of a majority of amount of such stockholders, provide for such increase of the capital stock of said company as may be found necessary to complete said road in such sections as may have been actually commenced but remain in an unfinished state for want of means for completing the same.

How charter forfeited.

SEC. 14. If said company shall violate any of the privileges hereby granted, the legislature of the state of Wisconsin may resume all and singular the rights and privileges vested in said company by this act.

Company liable for damages.

SEC. 15. Said company shall be liable for all damages that may be sustained by any person or persons in consequence of the omission or neglect to keep said road in good repair and condition.

J. McM. SHAFER,

Speaker of the Assembly.

E. B. DEAN, JR.

President pro tem. of the Senate.

Approved, April 16, 1852.

LEONARD J. FARWELL.

[*Published, June 10, 1852.*]

Chap 367

An Act to incorporate the Union Academy.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Jesse Smith, Alanson B. Vaughan, Harvey Frost, Hezekiah L. Smith, Allen Miner, Peter A. Hen,